



SENATE REPUBLICAN

POLICY COMMITTEE

Legislative Notice

No. 54

April 21, 2008

S. 1315 – Disabled Veterans Insurance Improvement Act of 2007

Calendar No. 336

S. 1315 was reported by voice vote by the Committee on Veterans' Affairs on August 3, 2007 with a substitute amendment. S. Rpt. 110-148, with supplemental views.

Noteworthy

- A cloture vote on a motion to proceed to S. 1315 has been scheduled for 12:00 p.m. Tuesday, April 22.
- S. 1315: enhances life insurance benefits for veterans disabled in service under the age of 65 and veterans who suffered traumatic injuries in combat since 2001 regardless where those injuries occurred; enhances mortgage life insurance coverage to disabled veterans; enhances certain housing benefits for veterans with severe burn injuries; and enhances certain labor and education benefits for veterans.
- S. 1315 creates a new pension benefit for Filipino Veterans of World War II.
- The costs of S. 1315 are offset by reversing the effects of a federal court ruling that expanded the population of veterans eligible for a special pension benefit.
- CBO estimates that implementing this legislation would incur discretionary costs of \$178 million in 2008 and \$1 billion over the 2008-2012 period. Also, CBO estimates that direct spending would decrease by \$4 million in 2008, \$44 million over the 2008-2012 period, and \$56 million over the 2008-2017 period.
- At press time, no Statement of Administration Policy was available. In a letter dated July 27, 2007, Secretary of Veterans Affairs R. James Nicholson expressed strong reservations about the Filipino Veterans pension benefit in S. 1315, which he characterized as significantly higher than the average family income in the Philippines and also, relative to the U.S. economy, higher than the pension benefits paid to U.S. veterans in the U.S.

Highlights

Overview

S. 1315 creates or enhances a range of benefits for veterans generally, including life insurance, housing, employment and education, compensation and pensions, funeral and burial costs, automobile and assisted living expenses, and others. It creates new benefits for Filipino veterans of World War II. It also addresses deficiencies at the U.S. Court of Appeals for Veterans' Claims. The entitlement benefits in this bill aggregate more than \$900 million over 10 years.

The costs of the increased benefits in S. 1315 are offset by savings created in Section 603. This section reverses the effect of a 2006 federal court ruling that significantly expanded the scope of eligibility for one particular benefit,¹ resulting in a significant cost increase for the Veterans Administration (VA). Section 603 is expected to result in savings of \$965 million over 10 years, providing for the entirety of the offset in this bill.

Filipino Veterans' Benefits

Before World War II, Philippine armed forces were organized in anticipation of eventual independence. During World War II, these forces, which comprised the Philippine Commonwealth Army and other units, were organized in cooperation with the Philippine government to serve at war under U.S. military command, pledging allegiance to the United States. In 1942, a legal opinion of the Veterans Administration determined that these Filipinos (hereinafter "Filipino Veterans") had served in the active military of the United States and were therefore eligible for veterans' benefits on the same basis as U.S. veterans. Given the wide disparity in the cost of living between the U.S. and the Philippines, these benefits were seen by many as disproportionate and even exorbitant. Congress addressed this concern in the Rescission Acts of 1946 (P.L. 70-301), which established that service in the local Philippine armed forces "shall not be deemed to be or to have been service in the military or national forces of the United States or any component thereof or any law of the United States conferring rights, privileges or benefits." Instead, Congress has extended a range of benefits to these veterans over the years. Moreover, Filipinos who served as regular soldiers in the U.S. armed forces are eligible for the same benefits as any other veterans of the U.S. armed forces.

Section 401 of S. 1315 creates significant new benefits for Filipino Veterans totaling some \$328 million. Of this, about \$221 million is allocated for pension benefits for several thousand Filipino Veterans, most of whom currently live in the Philippines. This pension benefit accounts for about one-quarter of the offset related to Section 603. It is estimated that the benefit would put beneficiaries at 1,400 percent above the poverty level in the Philippines, and 21 percent above average household income, whereas the benefits to U.S. veterans put them only 10 percent above the U.S. poverty level and 17 percent of average household income. Attempts to reduce this amount were rejected in committee on party-line votes.

¹*Hartness v. Nicholson*, No. 04-0888 United States Court of Appeals for Veterans Claims 2006. The Court expanded the population of veterans eligible for special monthly pensions under 38 U.S.C. Section 1521(e).

Bill Provisions

S. 1315 affects a range of veterans' benefits. The following highlights some of the more significant provisions.

Title I – Insurance Matters

This title enhances insurance benefits for U.S. veterans.

- It establishes a new life insurance program providing up to \$50,000 in level premium term life insurance coverage. Veterans disabled in service who are under 65 at the time of application will be able to purchase up to \$50,000 in level-premium term life insurance coverage, in \$10,000 increments, at favorable rates. On reaching age 70, the insurance amount will be reduced to 20 percent of the amount of insurance previously in force and the veteran will be relieved of the obligation to pay further premiums.
- Under existing legislation, service members are entitled to certain traumatic injury protection benefits for injuries suffered in connection with Operation Enduring Freedom and Operation Iraqi Freedom, and for injuries sustained after December 1, 2005 regardless where they occurred. This title expands the traumatic injury protection to injuries sustained after October 7, 2007 regardless where they occurred.
- It also enhances veterans' mortgage life insurance coverage so that veterans who do not qualify for mortgage life insurance for reasons of certain disabilities will be entitled to such insurance in case of death.

Title II – Housing Matters

This title enhances housing-related benefits for U.S. veterans.

- It provides expanded adapted housing assistance for individuals with severe burn injuries, who otherwise are not eligible for the benefits available to veterans with permanent and total service-related disabilities due to blindness or the loss of, or loss of use of, a limb or limbs.

Title III – Labor and Education Matters

This title makes a number of changes to the administration of job-training and similar programs under the VA.

- It extends existing G.I. Bill benefits for those participating in apprenticeship or on-the-job-training, which are otherwise due to sunset this year.

Title IV – Filipino World War II Veterans Matters

This title creates significant new benefits for Filipino Veterans (as previously defined).

- It creates a new pension benefit for Filipino Veterans residing outside the U.S. of \$4,500 per year for married Filipino Veterans, \$3,600 per year for single Filipino Veterans, and \$2,400 per year for survivors.
- It entitles Filipino Veterans who receive service-connected compensation due to disabilities incurred or aggravated during military service to receive the same amount regardless where they live.
- It also provides certain medical, burial, and other benefits to such veterans.
- Filipino Veterans residing legally in the U.S. enjoy a range of benefits under current law.

Title V – Court Matters

This title eliminates the restriction on how many days per year a retired judge of the U.S. Court of Appeals for Veterans' Claims (CAVC) may voluntarily serve in recall status, modifies the retirement pay structure for judges of the CAVC appointed after the date of enactment, and exempts retired judges from involuntary recall after five years of recall service.

Title VI – Compensation and Pension Matters

This title increases certain benefits for former prisoners of war with post-traumatic stress disorder and increases cost-of-living adjustments for certain surviving family members.

- Section 603 reverses the effects of *Hartness v. Nicholson*, No. 04-0888 United States Court of Appeals for Veterans Claims 2006, by clarifying who is eligible for special monthly pensions.

Title VII – Burial and Memorial Matters

This title provides supplemental benefits for veterans for funeral and burial expenses and supplemental plot allowances.

Title VIII – Other Matters

This title provides a number of miscellaneous technical enhancements to veterans' benefits.

Administration Position

No Statement of Administration Policy was available at press time. In a letter to Veterans' Affairs Committee Chairman Daniel Akaka, dated July 27, 2007, Secretary of Veterans Affairs R. James Nicholson expressed strong reservations about the Filipino Veterans pension benefit in

S. 1315, which he characterized as significantly higher than the average family income in the Philippines and also, relative to the U.S. economy, higher than the pension benefits paid to U.S. veterans in the U.S.

Cost

CBO estimates that implementing this legislation would incur discretionary costs of \$178 million in 2008 and \$1 billion over the 2008-2012 period, assuming appropriations of the necessary amounts. Also, the bill contains provisions that would both increase and decrease direct spending for veterans benefits. CBO estimates that enacting S. 1315 would decrease direct spending by \$4 million in 2008, \$44 million over the 2008-2012 period, and \$56 million over the 2008-2017 period. Enacting the bill would have no effect on federal revenues.

Possible Amendments

As of the publication of this notice, there is no unanimous consent agreement that limits the submission of amendments.

It is expected that Senator Burr will offer an amendment to strike the pension benefit for Filipino Veterans and distribute the savings to other veterans benefits, substantially in the form of S. 2640, Senator Burr's alternative to S. 1315. *Inter alia*, the amendment would:

- eliminate the S. 1315 pension benefit for Filipino Veterans residing in the Philippines;
- provide full pension benefits to Filipino Veterans residing in the U.S. as well as Filipino Veterans with service-related injuries regardless of where they reside;
- make State Approving Agencies more accountable for their funding and make the federal funds provided to them discretionary starting in 2012;
- allocate the savings from the elimination of the S. 1315 pension benefit for Filipino Veterans to benefits for U.S. veterans such as:
 - disabled housing benefits,
 - burial benefits,
 - auto grants for the disabled,
 - educational assistance for Guard and Reserve personnel; and
- eliminate the authorization of discretionary overall spending in several provisions of S. 1315.